UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____

CHARLIE THORNTON,	)
Plaintiff,	)
	) CIVIL ACTION NO.: 05-10210-RGS
v.	)
	)
UNITED PARCEL SERVICE, INC.,	)
Defendant.	)

_____)

MOTION IN LIMINE TO EXCLUDE EVIDENCE OF
COLLECTIVE BARGAINING AGREEMENT

Now comes the Plaintiff, Charlie Thornton, and hereby moves this Court to prohibit counsel for the Defendant from admitting any evidence of the collective bargaining agreement as an explanation for why the Defendant failed to offer a particular accommodation and to order counsel to instruct his witnesses not to mention any such evidence. As grounds therefore, the Plaintiff states the following:

1.   Under the Americans with Disabilities Act, the word "discriminate" includes "participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with [a] labor union…" 42 U.S.C. §12112.

2.   As such, the evidence cannot be a defense to the issue of whether the Defendant violated the Americans with Disabilities Act; it is therefore irrelevant. See Fed. R. Evid. 401.

WHEREFORE, the Plaintiff respectfully requests that this Court prohibit any mention of this evidence

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Respectfully Submitted,
Charlie Thornton
By his attorneys

DATED: February 4, 2008   //s// Michael Tumposky
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LOCAL RULE 7.1 CERTIFICATION

Undersigned counsel certifies that the parties have conferred and have attempted in good faith to resolve or narrow the issue.

                                           //s// Michael Tumposky
                                           Michael Tumposky

CERTIFICATE OF SERVICE

I, Michael Tumposky, hereby certify that, on this the 4th day of February, 2008, I served a copy of this document, where unable to do so electronically, by first-class mail on all counsel of record in this matter.

                                           //s// Michael Tumposky
                                           Michael Tumposky

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